UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Case No: 05-4779

JOSEPH NARA

V.

FREDERICK FRANK, Appellant

SUR PETITION FOR REHEARING

Present: SCIRICA, Chief Judge, SLOVITER, McKEE, BARRY, AMBRO, FUENTES, SMITH, CHAGARES, JORDAN, HARDIMAN, WEIS, and NYGAARD, Circuit Judges*

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in

regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

/S/ Richard L. Nygaard
Circuit Judge

Dated: June 12, 2007
DMM/cc: Lisa Freeland, Esq.
Christopher D. Carusone, Esq.

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* The votes of the Honorable Joseph F. Weis, Jr., and the Honorable Richard L. Nygaard, are limited panel rehearing.